

## **REMARKS**

### **Acknowledgment of Receipt of Information Disclosure Statement**

In the Office Action mailed February 27, 2004, the Examiner acknowledged receipt of Applicant's information disclosure statement on September 12, 2003, and stated that a completed 1449 form will accompany the next office action. Applicant appreciates the Examiner's acknowledgment of receipt of the Applicant's information disclosure statement and Applicant awaits the 1449 form.

### **Drawings**

In the Office Action mailed February 27, 2004, the Examiner objected to the drawings under 37 CFR 1.83(a). In support of the objection, the Examiner stated that:

The drawings must show every feature of the invention specified in the claims. Therefore, the embodiment of the sheet with an adhesive (cohesive) as disclosed in the independent claims must be shown or the feature(s) cancelled from the claim(s). No new matter should be entered. Examiner notes that this embodiment was shown in the drawings of U.S. Patent No. 5,410,856.

A proposed drawing correction or corrected drawings are required in reply to the Office Action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The Examiner's assistance in clarifying the required drawings correction requirement during a telephone conference with Applicant's attorney on July 9, 2004 is acknowledged with appreciation. The Examiner's objection to the

drawings has been obviated by submitting herewith a new sheet 3 of the drawings wherein Fig. 9, has been amended to correspond to the drawing of U.S. Patent No. 5,10,856.

It is respectfully submitted that the amendments to the drawings submitted herewith do not constitute new matter are proper and accordingly should be entered such as respectfully requested.

### **Claim objections**

In the Office Action mailed February 27, 2004, the Examiner objected to claim 13 stating that in line 15, the Markush group of "at least one of a band or an adhesive or cohesive" is improper. The Examiner stated that the conjunction should be --and-- and the appropriate correction was required. Applicant has reviewed the claims now pending in the case, as well as claim 13, to determine the Markush language set forth in the claims. Accordingly, claims 1, 2, 5, 9, 12, 13, 16, 19, and 28 have been amended to properly set forth a Markush group wherein the conjunction --and-- has been included rather than the alternative word "or".

It is respectfully submitted that the amendments to the claims submitted herewith do not constitute new matter are proper and accordingly should be entered such as respectfully requested.

### **35 U.S.C. § 102 Rejection**

The Examiner rejected claims 1, 2, 4-9, 11-16, 18-23, 25-28 and 30 under 35 U.S.C. §102(b) as being anticipated by Lovett Jr. (U.S. Patent No. 1,964,887). The stated rejection is obviated as to claims 20-23, claim 25 and claim 26 in that such claims have been cancelled, and the stated rejection is respectfully traversed as to the remaining claims namely claims 1, 2, 4-9, 11-16, 18, 19, 27, 28 and 30 for the reasons set forth hereinafter.

In support of the rejection the Examiner stated:

As to claims 1,6, 13,20,27 and (sic) Lovett Jr. discloses a floral assembly (Figs.1-5) comprising a floral holding material (page 2 lines 1-5) having upper and loser (sic) ends (Figs. 1-3) and without a pot; a floral grouping 11 and 12 of Fig. 2) (sic) in the floral holding; and **a decorative sheet (14 of Figs. 1 and 2)** of material having upper and lower surfaces (Figs. 1 and 2) and a sheet disposed about the material (Figs. 1 and 2; and, the decorative sheet of material having a crimped portion (region around 19 of Fig. 1) having a plurality of overlapping folds (Fig. 1) and a band (20 of Fig. 1) disposed about the decorative sheet to hold the crimped portion.

As to claims 2,9,16,23, and 28, Lovett Jr. further discloses paper (Page 2 lines 10-17).

As to Claims 4,11, 18, 25 and 30 Lovett Jr. further discloses a non-shape sustaining material ("pliable nature" of page 2 line 10).

As to claims 5,12,19, and 26, Lovett Jr. further discloses a string (20 of Fig.1).

As to claims 7,8,14,15,21,22, Lovett Jr. further discloses the crimped portion both near the upper end and extending above the upper end of the floral holding material (shown in Fig.1).

The object of Lovett Jr. is a plant ball having moisture retaining characteristics. (Page 1 lines 3-5). The plant ball includes the stem and roots

of the plant and a mass of earth, peat or humus or a mixture of earth, peat and humus. (Page 1 lines 108-110 and Page 2 lines 1-3). Lovett Jr. teaches enclosing the plant ball in a coating (Page 2 lines 5 - 17) and forming a seal around the plant stem. (Page 2 lines 17-35). Lovett Jr. discloses that the coating may consist of any suitable material and may be formed by dipping the plant ball in a self hardening material or by applying a covering of paper, metal foil or composition sheet of material of a pliable nature (Page 2 lines 5 - 10). If the coating is made of paper it may include wax or have a lining of asphalt (Page 2 lines 13-15). In essence the coating of Lovett Jr. acts as a pot for the plant ball.

Each of the independent claims 1, 6, 13, and 27 recite a floral assembly, comprising: **a floral holding material capable of** receiving a portion of a floral grouping and **supporting the floral grouping without a pot**, the floral grouping supported by the floral holding material and a decorative sheet of material disposed about at least a portion of the floral holding material. Claims 2, 4 and 5 depend from independent claim 1, claims 7-9, 11 and 12 depend from independent claim 6, claims 14-16, 18 and 19 depend from independent claim 13 and claims 28 and 30 depend from independent claim 27 and, as such, the each of the dependent claims contain each and every element and limitation of the claims from which they depend.

Lovett Jr. does not teach, disclose or suggest **a floral holding material capable of supporting a floral grouping without a pot.** Furthermore, Applicant respectfully disagrees with the Examiner's assertion that Lovett discloses **a decorative sheet of material disposed about the floral holding material.** Neither Figs. 1 or 2 of Lovett Jr. disclose, teach or even suggest a decorative sheet of material wrapped around **a floral holding material capable of supporting a floral grouping without a pot.** In fact, the element number 14 in Figs. 1 and 2 of Lovett Jr., cited by the examiner as a "decorative sheet of material" is, in fact, described as a "bag" in the specification of Lovett Jr..

In view of the reasons provided above, it is respectfully requested that the Examiner reconsider and withdraw the rejection of the claims under 35 U.S.C. § 102 (b).

### **35 U.S.C. § 103(a) Rejection**

The Examiner also rejected claims 3,10,17,24 and 29 under 35 U.S.C. §103(a) as being unpatentable over Lovett Jr. (U.S. Patent No. 1,964,887) in view of Weder U.S. Patent No. 4,950,216). In support of the rejection the examiner stated:

As to claims 3,10,17,24, and 29, the limitations of claims 1,6,13,20, and 27 are disclosed as described above. Not disclosed is the sheet of material having a thickness of from 0.1 to 30 mils. Weder ('216), however, discloses a sheet that is an decorative floral assembly with a thickness of from 0.1 to 30 mils (col.3 lines 3-14). It would have been obvious to one of ordinary skill in the art

at the time of the invention to modify the assembly of Lovett Jr. by having the thickness of the sheet from .1 to 30 mils as disclosed by Weder ('216) so as to keep the assembly light as possible.

The Applicant respectfully traverses the rejection of claims 3,10,17,24, and 29 for the reasons set forth hereinafter. Claim 3 depends from independent claim 1, claim 10 depends from independent claim 6, claims 17 and 24 depend from independent claim 13 and claim 29 depends from independent claim 27 and, as such, the dependent claims contain each and every element and limitation of the claims from which they depend. The Applicant realleges and reasserts, as if fully set forth herein, the aforementioned arguments regarding independent claims 1,6, 13 and 27 and the teachings and disclosure of Lovett Jr. and further alleges and asserts that Weder '216 does nothing to supply the deficiencies of Lovett Jr.. Weder '216, alone or in combination with Lovett Jr., does not teach, disclose, or even suggest **a floral holding material capable of supporting a floral grouping without a pot**. Nor does Weder '216 alone or in combination with Lovett Jr. teach disclose or suggest **a decorative sheet of material disposed about such floral holding material**. In fact, Weder '216 teaches away from a floral holding material capable of supporting a floral grouping without a pot and a decorative sheet of material disposed about the floral holding material, in that, Weder '216 teaches and discloses **a flower pot for containing flowers made by forming a sheet of material into a container**. (Abstract) As recited in each of the independent claims 1,6,13 and

27 of the current application the floral holding material is capable of supporting the floral grouping without the necessity of a pot.

In view of the reasons provided above, it is respectfully requested that the Examiner reconsider and withdraw the rejection of the claims under 35 U.S.C. § 103 (a).

**Prior Art of Record Not Relied Upon**

The Applicant has reviewed the prior art of record not relied upon by the Examiner and has determined that the prior art of record not relied upon is no more relevant than the prior art relied upon by the Examiner.

### **Conclusion**

In view of the above, applicant respectfully submits the claims are now in a condition for allowance and requests issuance of a Notice of Allowance thereof. Should the Examiner have any questions or comments concerning this Response, the Remarks contained therein, or any other matter, Applicant's attorney will welcome the opportunity to discuss same with the Examiner.

Respectfully submitted,



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Richard A. Nelson, Reg. No. 45,995  
DUNLAP, CODDING & ROGERS, P.C.  
P.O. Box 16370, Customer No. 30589  
Oklahoma City, Oklahoma 73113  
Telephone: 405/607-8600  
Facsimile: 405/607-8686  
E-Mail: Richard\_Nelson@okpatents.com  
Website: www.okpatents.com

Attorney for Applicant